

**REMARKS**

Applicant requests reconsideration and allowance of the subject application. By this Amendment, Applicant has amended claims 1, 11, 12, 14, 16, 17, 27, 28, 38, 39, 41, 43, 44, 48 & 53, and has cancelled claims 46 & 50. Claims 1, 11, 12, 14, 16, 17, 27, 28, 38, 39, 41, 43, 44, 47, 48 & 51-57 are now pending. Applicant respectfully traverses the rejections of the pending claims for the reasons that follow.<sup>1</sup>

**Rejection Under 35 U.S.C. § 101**

Claim 28 was rejected under Section 101 for reciting non-statutory subject matter because a "tangible computer-readable medium containing a program" allegedly could be interpreted as a carrier wave. (Office Action, p. 3.) The Examiner's reasoning is unclear. Does the Examiner mean that a "tangible" medium could be interpreted to be an *intangible* signal that is not a "composition of matter"? How can a carrier wave be considered tangible? Also, how would a carrier-wave be "computer-readable"? Indeed, it appears that the Examiner is confusing the words "tangible" (i.e., concrete, touchable) with "perceptible" (i.e., capable of being sensed.) It is respectfully requested that the Examiner explain his rationale and, if possible, cite some reference or USPTO policy supporting it.

To obviate the rejection, claim 28 has been amended to recite "A computer-readable *data storage device* containing a program with instructions" (Emphasis added.) Thus, claim 28 recites a machine and/or composition of matter in accordance with Section 101. Applicant, therefore, respectfully requests that the Examiner withdraw the rejection of claim 28 under Section 101. Claims 38, 39, 41 & 43 also recite statutory subject matter under Section 101 for the same reasons as claim 28.

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<sup>1</sup> The Office Action contains statements characterizing the claims and related art. Regardless of whether any such statements are specifically addressed herein, Applicant's silence as to these characterizations should not be construed as acceptance of them.

**Rejections Under 35 U.S.C. § 103(a)**

Claims 1, 11, 12, 14, 16, 17, 27, 28, 38, 39, 41, 43, 44, 47, 48 & 51

Claim 1 was rejected under 35 U.S.C. §103(a) as allegedly not being patentable over U.S. Patent No. 6,795,434 to *Kumar et al.* ("*Kumar*") in view of U.S. Patent No. 7,039,724 to *Lavian et al.* ("*Lavian*"). Applicant respectfully submits that the references applied in the Office Action cannot support a rejection of claim 1 under Section 103 because, taken individually or in combination, the references do not disclose or suggest all the features recited in claim 1.

Claim 1 recites "searching for a network address of the server computer using a backup search procedure if the address of the server computer cannot be identified using a primary search procedure, wherein: the public key is an identifier of the server computer, and the backup search procedure searches for the server computer using the public key to identify the server computer." The Examiner concedes that *Kumar* does not disclose or suggest a "primary search procedure or the backup search procedure identif[ying] the sever using [a] public key." (Office Action, p. 4.) Thus, *Kumar* also cannot disclose or suggest, the above-noted features of claim 1.

*Lavian* is relied on for its purported disclosure of using a public-key *to encrypt network management command* for a network device. (Office Action, p. 10, *citing Lavian*, col. 11, ll. 32-38.) *Lavian*, however, does not disclose or suggest anything with regard "search[ing] for the server computer using the public key *to identify the server computer*," as recited in claim 1. (Emphasis added.)

Because *Kumar* and *Lavian* do not disclose the above-noted subject matter recited in claim 1, these references, taken individually or in combination, cannot support a rejection of claim 1 under Section 103(a). Claim 1 is, therefore, allowable over *Kumar* and *Lavian*.

Claims 11, 12, 14 & 16 are also allowable over *Kumar* and *Lavian* at least due to their dependence from claim 1.

Independent claims 17, 28, 44 & 48 recite features similar to those recited in independent claim 1. Claims 17, 28, 44 & 48 are, therefore, allowable for the same reasons set forth above with regard to claim 1, and claims 27, 38, 39, 41, 43, 47 & 51 are allowable at least due to their corresponding dependence from claims 17, 28, 44 & 48.

### Claims 52 & 53

The Examiner concedes that *Kumar* does not disclose or suggest “performing a backup search procedure if the network address of the server computer is not found using a primary search procedure, the backup search procedure including searching a configuration record of the client computer system for the network address of the server computer,” as recited in claim 52. (Office Action, p. 13.) However, the Examiner asserts that *Lavian* discloses this claim feature. Applicant disagrees.

*Lavian*'s disclosure of configuration classes in a command-line interface (CLI) application is relied on by the Examiner for purportedly teaching the above-described feature of claim 52. This command line interface allows a user to type-in commands directly to a network device via a terminal to configure and monitor network information. (*Lavian*, cols. 11:62-12:2.) The application programming interface for the CLI includes a set of classes to perform various functions. (*Id.* at col. 12-15.) Of these classes, configuration classes 908 can be used to change operating characteristics of network devices. (*Id.* at col. 39-45.)

The Examiner points to configuration classes 908 for allegedly teaching the above-described feature of claim 52. (Office Action, p. 13.) On the contrary, configuration classes 908 have nothing to do with “performing a backup search procedure.” As described above, the classes merely allow a user to change the configuration of a network device.

Accordingly, *Lavian* does not disclose or suggest, a "backup search procedure including searching a configuration record of the client computer system for the network address of the server computer," as recited in claim 52.

Both *Kumar* and *Lavian* fail to disclose or suggest, the claimed "backup search procedure including searching a configuration record of the client computer system for the network address of the server computer." Thus, *Kumar* and *Lavian*, taken individually or in combination, cannot support a rejection of claim 52 under Section 103. Claim 52 is, therefore, allowable over the references applied against it.

Claim 53 is also allowable at least due its dependence from claim 52. In addition, claim 53 recites a "backup search procedure search[ing] for the server computer using the public key to identify the server computer." Thus, claim 53 is allowable over *Kumar* and *Lavian* for the same reasons set forth above with regard to claim 1.

#### Claim 54

The Examiner also concedes that *Kumar* does not disclose or suggest, a "backup search procedure" that "search[es] an authentication record for the network address of the server computer." (Office Action, p. 14.) The Examiner asserts that *Lavian* discloses this feature. Applicant disagrees.

With regard to the above-noted feature, the Examiner points to column 4, lines 21-34 of *Lavian*, which states:

Network device 104 enables authentication server 110 to authenticate downloading of applications from application server 108 to other network devices within communication system 100. Authentication server 110 can identify a network device on the network and determine if that device should or should not receive a particular application. For example, authentication server 110 may authenticate a particular application and determine if the application should be downloaded to a network device in communication system 100. This feature could be used to prevent introduction of viruses or other unauthorized software onto the network. Additionally, authentication server 110 may also

determine if a network device within communication system 100 has proper authorization to download an application.

This portion of *Lavian* only describes authentication for security purposes. Nowhere does *Lavian* disclose "an authentication record," let alone "searching an authentication record for a network address."

As such, *Kumar* and *Lavian* both fail to disclose or suggest the above-identified feature of claim 54. Thus, these references, taken individually or in combination, cannot support a rejection of claim 54 under Section 103. Thus, claim 54 is allowable over the purported combination of *Kumar* and *Lavian*.

#### Claims 55-57

It is conceded by the Examiner that *Kumar* does not disclose or suggest, a "performing a backup search procedure if the network address of the server computer is not found using a primary search procedure, said backup search determining whether the server computer is running on a CPU that is the same CPU on which the client computer is running in order to determine the network address of the server computer" (Office Action, p. 15.) The Examiner points to *Lavian's* description of a "loopback address" to allegedly teach the above-noted feature.

On the contrary, according to *Lavian*, a network management application running on a local network device can send a request for local network parameters to a self-referential "loopback address" that establishes a data route back to the network protocol stack of the local network device. (*Lavian*, col. 10:38-56.) It is unclear how the Examiner considers a loopback address to teach or suggest the features of claim 55. *Lavian* is silent as to a "determining whether [a] server computer is running on a CPU that is the same CPU on which the client computer." Moreover, *Lavian* makes no mention of using the above-noted determination "to determine the network address of the server computer." Indeed, *Lavian's*

mere mention of using a loopback address cannot be considered to teach or suggest the features of claim 55.

Since *Kumar* and *Lavian* do not disclose or suggest the above-noted features of claim 55, these references, taken individually or in combination, cannot support a rejection of claim 55 under Section 103. Claim 55 is, therefore, allowable over *Kumar* and *Lavian*. Claims 56 and 57 are also allowable at least due its dependence from claim 55.

### **Conclusion**

For at least the foregoing reasons, reconsideration and withdrawal of the rejections, and allowance of all claims is respectfully requested.

Respectfully submitted,

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